

**Instructions to Determine the Appropriate Case Compensation Maximums for
Panel Attorneys and Providers of Investigative, Expert, and Other Services
Under the Amendments to the Criminal Justice Act
in the Omnibus Appropriations Act, Fiscal Year 2005
Pub. L. No. 108-447**

With the enactment of increased case compensation maximums for panel attorneys and providers of investigative, expert, and other services under subparagraphs (d)(2) and (e)(2) and (3) of the Criminal Justice Act (CJA), 18 U.S.C. § 3006A, respectively, effective December 8, 2004, courts must determine whether compensation claims submitted on a CJA Form 20 (Appointment and Authority to Pay Court Appointed Counsel) and CJA Form 21 (Authorization and Voucher for Expert and Other Services) are governed by the new maximums or by the former maximums. In addition, for death penalty cases, only the increase from \$300 to \$500 under subsection (e)(2) of the CJA applies, where a provider of investigative, expert, or other services (CJA Form 31 - Death Penalty Proceedings: Ex Parte Request for Authorization and Voucher Expert and Other Services) performs work without counsel having obtained prior authorization from the court to obtain the service and without the court making a finding that procurement of the service could not await prior authorization.¹

The key rules are:

The new maximums apply to appointed counsel or a provider of investigative, expert, or other services for a representation if that person furnished any CJA-compensable work on or after December 8, 2004.

The former case compensation maximums apply to appointed counsel or a provider of investigative, expert, or other services for a representation if that person's work was completed before December 8, 2004.

The person responsible for reviewing, processing, or approving claims should look at Item 19 ("Certification of Attorney/Payee for the Period of Service") of the CJA Form 20 and Item 17 ("Claimant's Certification for Period of Service") of the CJA Forms 21 and 31 to determine whether the attorney or provider of investigative, expert, and other services furnished any CJA-compensable work on or after December 8, 2004. If so, the new case compensation maximums apply to that person's voucher on the representation: (a) for appointed attorneys - felony \$7,000, misdemeanor \$2,000, appeal \$5,000, 18 U.S.C. § 4106A parole proceeding \$1,500/appeal \$5,000, and other representations \$1,500; and (b) for service providers - \$500

¹ The case maximum of \$7,500 for total payments to providers of investigative, expert, and other services in a death penalty case, contained in 21 U.S.C. § 848(q)(10)(B), was not increased by the legislation.

without prior authorization (only this case maximum revision possibly applies to a death penalty case) and \$1,600 with prior authorization.

If, on the other hand, all services were performed before December 8, 2004, the former case compensation maximums apply: (a) for appointed attorneys - felony \$5,200, misdemeanor \$1,500, appeal \$3,700, 18 U.S.C. § 4106A parole proceeding \$1,200/appeal \$3,900, and other representations \$1,200; and (b) for service providers - \$300 without prior authorization and \$1,000 with prior authorization. (PLEASE NOTE: If the voucher is entered into the CJA payment system after December 8, 2004, the warning message indicating that circuit approval is required will not activate at the former case maximum levels, even when they apply. The warning messages are only being generated based on the new case compensation maximums.)